

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-603-RJC
(3:06-cr-363-RJC-3)**

GERALD ADRIAN WHEELER,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER


THIS MATTER is before the Court on its own motion.

In his § 2255 motion, as supplemented, Petitioner contends that he is entitled to relief from his sentence based on, among authority, the Fourth Circuit's en banc decision in United States v. Simmons, 649 F.3d 237 (4th Cir. 2011). In particular, Petitioner argues that he is entitled to sentencing relief under the provisions of 28 U.S.C. § 2241, and the Government agrees. This issue of the availability of relief under § 2241 is currently under consideration by the Fourth Circuit in the case of United States v. Raymond Surratt, Jr., No. 14-6851 (4th Cir. June 4, 2014), and oral argument is scheduled for January 27, 2015. For the foregoing reasons, the Court finds that this collateral proceeding should be stayed pending disposition of United States v. Surratt.

IT IS, THEREFORE, ORDERED that this case is **STAYED** pending the disposition of United States v. Surratt by the Fourth Circuit.

IT IS SO ORDERED.

Signed: January 26, 2015



Robert J. Conrad, Jr.
United States District Judge

